

Office Action Summary**Application No.**

10/598,904

Applicant(s)

KANNO ET AL.

Examiner

JAMES HSIAO

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, applicant claims that a flow rate of the fluid passing through the flow path becomes smaller according to a movement of the valve body. It is unclear as to how the flow *rate* becomes smaller as the area of the flow path becomes smaller. Examiner takes the position that as the area of the flow path becomes smaller, similar to that of a throttle, the flow rate would increase, or have a throttling effect. It is also noted that the limitation with regards to the flow rate becoming smaller is a new limitation and has been amended in but has not been indicated as such.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

To further clarify, there are limitations that appear to be a translation and are unclear with regards to the scope of the claim. Claim 1, line 8 and claim 5, line 3, the limitation "flown" is recited. It is not clear if the fluid is being referred to in a manner of past tense or if the fluid was "flying" through the mechanism. In lines 13 and 14, the limitation "owing to entering" is recited. It is not clear what the scope of this limitation means. In several locations throughout claim 1, the limitation "it's" is recited. It is not clear what "it's" encompasses.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (20030177606).

Regarding claim 1 (as best understood), Lee discloses an operating chamber (fig 4) through which fluid can pass (col. 4, lines 1-14), a valve chamber formed adjacently to the operating chamber (fig 4), a valve body (20) (col. 4, lines 28-38), and a first spring (s) capable of giving a resistance to the forward movement of the valve body, wherein

the fluid, when moving from the valve chamber to the operating chamber, owing to entering of the valve body into the operating chamber, moves only (fig 4) through a flow path formed between an inner peripheral surface of a peripheral wall of the operating chamber and an outer peripheral surface of the valve body (fig 4, between 24 and 20), and wherein a flow rate of the fluid passing through the flow path becomes smaller according to a movement of the valve body forwardly from its natural state position in the operating chamber (fig 4).

Regarding claim 2, Lee discloses wherein the valve mechanism can or is capable of increasing the damping effect by increasing a length of the flow path (see figs 2, 4, and col. 4, lines 28-38) as the moving distance of the valve body which forwardly moves in the chamber (col. 4, lines 28-38, col. 5, lines 1-25).

Regarding claims 6 and 7, any structure inside the cylinder of Lee can be interpreted as the pushing member or a partitioning member that pushes fluid by rotational motion as that is the general nature of the rotary damper (col. 4, line 33/34)

Regarding claim 8, Lee discloses movable bodies (116, 128, 212, 222).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (20030177606) in view of Park (20040250377).

Regarding claim 5, Lee discloses as set forth above but lacks a return spring. Park teaches a return spring (169).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the damper of Lee with the return spring of Park because a return spring allows for a controlled movement in an opposite direction of operation.

Response to Arguments

9. Applicant's arguments filed 9/20/2010 have been fully considered but they are not persuasive. Applicant has argued that the reference (Lee) does not disclose a valve body that moves forwardly to go into an operating chamber, examiner respectfully disagrees. As broadly recited, the valve body (20) does move forwardly into the operating chamber during operation of the rotary damper as stated above in the body of the rejection and recited in the disclosure of Lee (see paragraphs 25-43).

It is noted that the amendment appears to contain claim limitations not present in the original set of claims but indicated as so. All amendments should be made with either a cross through or underline indicating subject matter being removed from or added to the claim.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES HSIAO whose telephone number is (571)272-6259. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JKH

/THOMAS J WILLIAMS/
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